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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2018-OSERS-0075]

Proposed Priority and Requirements--Technical Assistance on State Data Collection--National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate Early Childhood IDEA Data

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority and requirements.

SUMMARY: The mission of the Office of Special Education and Rehabilitative Services (OSERS) is to improve early childhood, educational, and employment outcomes and raise expectations for all people with disabilities, their families, their communities, and the Nation. As such, the Department of Education (Department) proposes a funding priority and requirements under the Technical Assistance on State Data Collection program. The Department may use this priority for competitions in fiscal year (FY) 2019 and later years. We take this action to focus attention on an identified national need to provide technical assistance (TA) to improve the capacity of States to meet the data collection requirements under Parts C and B of the

Individuals with Disabilities Education Act (IDEA). This Center would support States in collecting, reporting, and determining how to best analyze and use their data to establish and meet high expectations for each child with a disability and would customize its TA to meet each State's specific needs.

DATES: We must receive your comments on or before [INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "How to use Regulations.gov" in the Help section.

- Postal Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments about the proposed

priority and requirements, address them to Meredith Miceli, U.S. Department of Education, 400 Maryland Avenue, SW, room 5141, Potomac Center Plaza, Washington, DC 20202-5108.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Meredith Miceli, U.S. Department of Education, 400 Maryland Avenue, SW, room 5141, Potomac Center Plaza, Washington, DC 20202-5108. Telephone: (202) 245-6028. Email: Meredith.Miceli@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priority and requirements. To ensure that your comments have maximum effect in developing the notice of final priority and requirements we urge you to clearly identify the specific topic that each comment addresses.

We are particularly interested in comments about whether the proposed priority or any of the proposed requirements would be challenging for new applicants to meet and, if so, how the proposed priority or requirements could be revised to address potential challenges.

Directed Question: For the proposed priority, the Department is also considering a specific requirement that would limit the reimbursement of indirect costs under this grant competition in order to maximize the funding available to provide TA to States to meet data collection and reporting requirements and improve data collection, coordination, quality, and use under Parts B and C of IDEA.

We are considering this requirement based on 2 CFR 200.414(c)(1), which allows a Federal awarding agency to use an indirect cost rate different from the negotiated rate when required by Federal statute or regulation or when approved by a Federal awarding agency head or delegate based on documented justification when the Federal awarding agency implements, and makes publicly available, the policies, procedures, and general decision making criteria that their programs will follow to seek and justify deviations from negotiated rates. Federal discretionary grantees have historically been reimbursed for indirect costs at the rate that the grantee has negotiated with its

Federal cognizant agency, and we believe that use of the negotiated rate is appropriate for most grants in most circumstances. However, because funding for this program comes from funds reserved by the Department that would otherwise be allocated to States under Part B (which applies a restricted indirect cost rate to State grantees), we are considering limiting indirect costs to maximize the availability of funds for the primary purposes of this priority.

We analyzed historical grantee data for grants previously awarded under CFDA number 84.373 and found a wide range of indirect cost rate agreements in place. We are considering setting a reasonable cap in an amount, for example, between 25 percent to 40 percent for those administrative costs that are indirect costs for grantees, including subrecipients, or potentially implementing an approach to allow programs to seek and justify deviations from negotiated rates. The Secretary invites comments on the practical implications of this proposed indirect cost limitation for grantees and subrecipients, specific comments on the maximum indirect cost rate, including what a reasonable cap would be and the rationale for the proposed amount, and thoughts on allowing programs to seek and justify deviations.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866, 13563, and 13771 and their overall requirement of reducing regulatory burden that might result from this proposed priority and these proposed requirements. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priority and requirements by accessing Regulations.gov. You may also inspect the comments in person in room 5141, 550 12th Street, SW, Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority and requirements. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary the authority to reserve up to 1/2 of 1 percent of the amounts appropriated under Part B for each fiscal year to provide TA, where needed, to improve the capacity of States to meet the data collection requirements under Parts B and C of IDEA. The maximum amount the Secretary may reserve under this set-aside for any fiscal year is \$25,000,000, cumulatively adjusted by the rate of inflation. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for the implementation of section 616 of IDEA are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the data collection requirements, which include the data collection and reporting requirements in sections 616 and 618 of IDEA. Additionally, Division H of the Consolidated Appropriations Act of 2018 gives the Secretary the authority to use funds reserved under section 611(c) to

"carry out other services and activities to improve data collection, coordination, quality, and use under parts B and C of the IDEA." Consolidated Appropriations Act, 2018; Div. H, Title III of Pub. Law 115-141; 132 Stat. 745 (2018).

To help ensure this program meets State needs, we invited the public to provide input on the Technical Assistance on State Data Collection program from April 24, 2018, through May 24, 2018, on the ED.gov OSERS Blog.¹ In response to this invitation, we received 63 relevant responses, all of which we considered in our development of this document. Sixty-two supported our continuing to fund TA centers; only one supported one of the other options we presented, specifically, to invite State educational agencies and State lead agencies to directly apply for funds reserved under section 616(i) (Part B) to purchase TA to improve their capacity to meet their IDEA Part B and Part C data collection requirements. A few commenters noted some concerns regarding overlap between centers and a need for cross-State collaboration opportunities. We addressed these concerns in the proposed priority by: (1) including a requirement for the center to offer cross-State

¹ See <https://sites.ed.gov/osers/2018/04/use-of-part-b-program-funds-for-technical-assistance-to-states-on-idea-data-collection/>.

collaboration TA opportunities; and (2) clarifying the scope of this center and the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B Data, CFDA number 84.373Y, the proposed priority for which is published elsewhere in this issue of the *Federal Register*.

Program Authority: 20 U.S.C. 1411(c), 1416(i), 1418(c), and 1442; and Department of Education Appropriations Act, 2018; Div. H, Title III of Pub. Law 115-141, Consolidated Appropriations Act, 2018; 132 Stat. 745 (2018).

Applicable Program Regulations: 34 CFR 300.702.

PROPOSED PRIORITY:

The Assistant Secretary proposes the following priority for this program. We may apply this proposed priority in any year in which this program is in effect.

National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate Early Childhood IDEA Data.

Background:

The purpose of this proposed priority is to establish a TA center to provide TA to (1) improve States' capacity to collect, report, analyze, and use high-quality IDEA Part C early intervention data (including IDEA section 618 Part C data and section 616 Part C data) and IDEA Part B

preschool special education data² (limited to particular Part B preschool data elements required under IDEA sections 616 and 618³); and (2) enhance, streamline, and integrate statewide, child-level early childhood data systems (including Part C and Part B preschool special education data systems) to address critical policy questions that will facilitate program improvement, and improve compliance accountability for, and outcomes or results for children served under, Part C early intervention and Part B preschool special education programs.

Through their State Systemic Improvement Plans (SSIPs), States identify data-related needs to improve outcomes of infants, toddlers, and young children with disabilities. In 2017, 78 percent of Part C State programs reported concerns or limitations with the quality or availability of the data used to report progress or results

² Throughout this document, "IDEA Part B preschool special education data" refers to data required under section 616 of IDEA for those indicators solely associated with children with disabilities ages 3 through 5 (e.g., Indicators B6, B7, and B12) as well as data on children with disabilities ages 3 through 5 required under section 618 of IDEA for the Part B Child Count and Educational Environments data collection.

³ TA on the other Part B data required under sections 616 and 618 of IDEA would be provided through the proposed priority in the notice of proposed priority and requirements for the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B Data [CFDA number: 84.373Y].

for the SSIP.⁴ Additionally, States identified limits on data system capacity as a barrier to implementing (1) improvement plans, (2) activities to improve practices, and (3) evaluation plans. In the SSIPs submitted to OSEP in 2017, States reported a need for TA related to SSIP evaluation in the following areas: data collection procedures, data analysis, local data use, State-identified measurable result (SIMR) data quality, and State data use.

In addition, States need to establish and implement effective early childhood data management and, where appropriate, data system integration policies and procedures to support program improvement, compliance accountability, and Federal and public reporting. Improved policies and procedures will allow States, where appropriate, to link or integrate child-level data in Part C data systems, Part B preschool special education data systems, other early learning program data systems, and statewide longitudinal data systems for school-aged children. Building robust early childhood integrated data systems (ECIDS) that include Part C early intervention data and Part B preschool special education data that can be

⁴ U.S. Department of Education. (2017). 2017 Part C FFY 2015 State Performance Plan/Annual Performance Report Indicator Analysis. Retrieved from <https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=28033>.

used to respond to critical policy questions will facilitate program improvement and improve compliance accountability for Part C early intervention and Part B preschool special education programs. This level of integration will support States' efforts to implement data-driven decision-making for program improvement and compliance accountability and will help ensure that States report high-quality IDEA data to the Department and the public.

ECIDS could allow States to identify what works best to improve outcomes for young children in their State. For instance, ECIDS could allow States to determine which characteristics of services are related to better outcomes for children and families or the relationship between early childhood setting and early childhood outcomes. An ECIDS that includes data from across various early care and education programs could also provide data that would better inform efforts to improve child find activities in the State by identifying strong referral sources and those where more outreach may be needed. An ECIDS could also help States determine the other early care and education programs that young children with disabilities and their families are participating in, allowing States to maximize efficiency in the operation of the early intervention or

early childhood special education program while maintaining or improving outcomes. For more information on the Department's vision of integrated early childhood data, see The Integration of Early Childhood Data: State Profiles and a Report from the U.S. Department of Health and Human Services and the U.S. Department of Education (2016) available at <https://www2.ed.gov/rschstat/eval/early-childhood-data/integration-early-childhood-data.pdf>.

However, there are challenges in integrating data systems. These challenges include protecting the personally identifiable information and privacy interests of children with disabilities and their families under applicable Federal and State laws, determining the appropriate policy questions that need answering, and identifying resources for developing interoperable systems. These challenges would benefit from the technical assistance of experts. In addition, stakeholders, including parents of children with disabilities, need to be part of the discussion to determine the appropriate extent of integration.

This Center will provide TA to improve the capacity of States to meet both their identified needs and data collection requirements by (1) improving early childhood data management and data system integration policies and

procedures; (2) enhancing Part C section 616 and 618 data and Part B preschool special education data (e.g., preschool outcome indicators) collection processes to meet IDEA data reporting requirements; and (3) building and using robust ECIDS that include Part C early intervention data and Part B preschool special education data to respond to critical State-determined policy questions associated with program improvement and compliance accountability. This proposed priority is designed to promote innovation and efficiency by funding a data center that will enhance, streamline, and integrate statewide, child-level early childhood data systems.

TA on collecting, reporting, analyzing, and using the other Part B data required under sections 616 and 618 of IDEA would be provided by the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Part B Data competition, CFDA number 84.373Y, the proposed priority for which is published elsewhere in this issue of the *Federal Register*.

This proposed priority aligns with two priorities from the Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the *Federal Register* on March 2, 2018 (83 FR 9096): Priority 2: Promoting Innovation and Efficiency, Streamlining Education

With an Increased Focus on Student Outcomes, and Providing Increased Value to Students and Taxpayers; and Priority 5: Meeting the Unique Needs of Students and Children With Disabilities and/or Those With Unique Gifts and Talents.

Proposed Priority:

The purpose of this proposed priority is to fund a cooperative agreement to establish and operate a National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate Early Childhood IDEA Data (Center). The Center will focus on providing TA on collecting, reporting, analyzing, and using Part C data required under sections 616 and 618 of IDEA, Part B data required under section 616 of IDEA for those indicators solely associated with children with disabilities ages 3 through 5 (e.g., Indicators B6, B7, and B12), and Part B data on children with disabilities ages 3 through 5 required under section 618 of IDEA for the Part B Child Count and Educational Environments data collection. The Center will provide TA to (1) improve States' capacity to collect, report, analyze, and use high-quality IDEA Part C data (including IDEA section 618 Part C data and IDEA section 616 Part C data) and IDEA Part B preschool special education data; and (2) enhance, streamline, and integrate statewide, child-level early childhood data systems

(including Part C and Part B preschool special education data systems) to address critical policy questions that will facilitate program improvement, improve compliance accountability, and improve outcomes or results for children served under Part C and Part B preschool special education programs. These Part C early intervention and Part B preschool special education data systems must allow the States to: (1) effectively and efficiently respond to all IDEA-related data submission requirements (e.g., Part C section 616 and 618 data and Part B preschool special education data); (2) respond to critical policy questions that will facilitate program improvement and compliance accountability; and (3) comply with applicable privacy requirements, including the confidentiality requirements under Parts B and C of IDEA, the Privacy Rule under the Health Insurance Portability and Accountability Act (HIPAA) (45 CFR part 160 and subparts A and E of part 164), and the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. 1232g) and its regulations at 34 CFR part 99.

The Center must be designed to achieve, at a minimum, the following outcomes:

(a) Increased capacity of States to collect, report, analyze, and use high-quality IDEA Part C data (including IDEA section 616 Part C data and section 618 Part C data);

(b) Increased capacity of States to collect, report, analyze, and use high-quality IDEA Part B preschool special education data;

(c) Increased number of States that use their Part C early intervention and Part B preschool special education data system to answer critical State-determined policy questions to drive program improvement, improve results for children with disabilities, and compliance accountability;

(d) Increased number of States with integrated or linked Part C early intervention and Part B preschool special education data;

(e) Increased number of States that use linked or integrated early childhood data to improve program compliance and accountability;

(f) Increased number of States with data system integration plans that allow for the linking of Part C and Part B preschool special education data as well as linking to other statewide longitudinal and early learning data systems and that comply with all applicable privacy laws;

(g) Increased capacity of States to implement and document Part C and Part B preschool special education data management policies and procedures and data system integration activities and to develop a sustainability plan

to continue this data management and data system integration work in the future; and

(h) Increased capacity of States to address personnel training needs to meet the Part C and Part B preschool special education data collection and reporting requirements under sections 616 and 618 of IDEA through development of effective tools (e.g., training modules) and resources (e.g., new Part C Data Managers resources), as well as providing opportunities for in-person and virtual cross-State collaboration about Part C data (required under sections 616 and 618 of IDEA) and Part B preschool special education data collection and reporting requirements that States can use to train personnel in local programs and agencies.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

PROPOSED REQUIREMENTS

In addition to the programmatic requirements contained in the proposed priority, we propose that, to be considered for funding, applicants must meet the following requirements.

Proposed Requirements:

The Assistant Secretary proposes the following requirements for this program. We may apply one or more of these proposed requirements in any year in which this program is in effect.

Applicants must—

(a) Demonstrate, in the narrative section of the application under "Significance," how the proposed project will--

(1) Address State challenges associated with early childhood data management and data system integration, including implementing early childhood data system integration and improvements; enhancing and streamlining Part C early intervention and Part B preschool special education data systems to respond to critical policy questions; using ECIDS for program improvement and compliance accountability for Part C early intervention and Part B preschool special education programs; and reporting high-quality IDEA Part C data (including IDEA section 616 Part C data and section 618 Part C data) and IDEA Part B preschool special education data to the Department and the public. To meet this requirement the applicant must--

(i) Present applicable national, State, or local data demonstrating the challenges of States to implement effective early childhood data management policies and procedures and data system integration activities, including integrating early childhood data systems across IDEA programs, other early learning programs, and other educational programs for school-aged students; linking Part C and Part B preschool special education program data; and

using their Part C and Part B preschool special education data systems to respond to critical State-determined policy questions for program improvement and compliance accountability;

(ii) Demonstrate knowledge of current educational and technical issues and policy initiatives relating to early childhood data management and data system integration, data use, data privacy, Part C IDEA sections 616 and 618 data, Part B preschool special education data, and Part C and Part B preschool special education data systems; and

(iii) Present information about the current level of implementation of integrating or linking Part C and Part B preschool special education data systems; integrating or linking Part C and/or Part B preschool special education data systems with other early learning data systems; using Part C and Part B preschool special education data systems to respond to critical State-determined policy questions; and collecting, reporting, analyzing, and using high-quality IDEA Part C data (including IDEA section 616 Part C data and section 618 Part C data) and IDEA Part B preschool special education data; and

(2) Improve early childhood data management policies and procedures and data system integration activities used to collect, report, and analyze high-quality Part C and

Part B preschool special education data; to integrate or link Part C and Part B preschool special education data systems as well as integrate or link these data with data on children participating in other early learning programs and data on school-aged children; and to develop and use robust early childhood data systems to answer critical State-determined policy questions and indicate the likely magnitude or importance of the improvements.

(b) Demonstrate, in the narrative section of the application under "Quality of project services," how the proposed project will--

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will--

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide--

(i) Measurable intended project outcomes; and

(ii) In Appendix A, the logic model (as defined in 34 CFR 77.1) by which the proposed project will achieve its intended outcomes that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(3) Use a conceptual framework (and provide a copy in Appendix A) to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: The following websites provide more information on logic models and conceptual frameworks:

www.osepideasthatwork.org/logicModel and

www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.

(4) Be based on current research and make use of evidence-based practices (EBPs).⁵ To meet this requirement, the applicant must describe--

⁵ For the purposes of these requirements, "evidence-based practices" (EBPs) means, at a minimum, demonstrates a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

(i) The current research on early childhood data management and data system integration, and related EBPs; and

(ii) How the proposed project will incorporate current research and EBPs in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe--

(i) How it proposes to identify or develop the knowledge base on early childhood data management and data system integration;

(ii) Its proposed approach to universal, general TA,⁶ which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

⁶ "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's website by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

(iii) Its proposed approach to targeted, specialized TA,⁷ which must identify--

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the State and local levels; and

(C) The process by which the proposed project will collaborate with OSEP-funded centers and other federally funded TA centers to develop and implement a coordinated TA plan when they are involved in a State;

(iv) Its proposed approach to intensive, sustained TA⁸ which must identify--

⁷ "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

⁸ "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to addressing States' challenges associated with limited resources to engage in early childhood data system integration and enhancement activities that streamline the established Part C and Part B preschool special education data systems to respond to critical policy questions and to report high-quality IDEA data to the Department and the public, which should, at a minimum, include providing on-site consultants to the State lead agency (LA) or State educational agency (SEA) to--

(1) Model and document data management and data system integration policies, procedures, processes, and activities within the State;

(2) Develop and adapt tools and provide technical solutions to meet State-specific data needs; and

(3) Develop a sustainability plan for the State to continue the data management and data system integration work in the future;

(C) Its proposed approach to measure the readiness of the State LAs and SEAs to work with the project, including

that support increased recipient capacity or improved outcomes at one or more systems levels.

their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the State and local program and district levels;

(D) Its proposed plan for assisting State LAs and SEAs to build or enhance training systems that include professional development based on adult learning principles and coaching;

(E) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, regional TA providers, districts, local programs, families) to ensure that there is communication between each level and that there are systems in place to support the collection, reporting, analysis, and use of high-quality IDEA Part C data (including IDEA section 616 Part C data and section 618 Part C data) and IDEA Part B preschool special education data as well as early childhood data management and data system integration; and

(F) The process by which the proposed project will collaborate with OSEP-funded centers and other federally funded TA centers to develop and implement a coordinated TA plan when they are involved in a State;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe--

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under "Quality of the project evaluation," include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.⁹ The evaluation plan must--

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph

(b)(2)(ii) of these requirements;

⁹ A "third-party" evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation, and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the Annual Performance Report (APR); and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

(d) Demonstrate, in the narrative section of the application under "Adequacy of resources," how--

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits and funds will be spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

(e) Demonstrate, in the narrative section of the application under "Quality of the management plan," how--

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe--

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements:

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual

planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period; and

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that meets government or industry-recognized standards for accessibility;

(5) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate; and

(6) Budget at least 50 percent of the grant award for providing intensive, sustained TA.

Final Priority and Requirements

We will announce the final priority and requirements in a document in the *Federal Register*. We will determine the final priority and requirements after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities or requirements, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this proposed priority and one or more of these proposed requirements, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 13771

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

Under Executive Order 13771, for each new rule that the Department proposes for notice and comment or otherwise promulgates that is a significant regulatory action under Executive Order 12866 and that imposes total costs greater than zero, it must identify two deregulatory actions. For FY 2019, any new incremental costs associated with a new rule must be fully offset by the elimination of existing costs through deregulatory actions. However, Executive Order 13771 does not apply to "transfer rules" that cause only income transfers between taxpayers and program beneficiaries, such as those regarding discretionary grant programs. Because the proposed priority and requirements would be utilized in connection with a discretionary grant program, Executive Order 13771 does not apply.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as

possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing the proposed priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are SEAs; LEAs, including charter schools that operate as LEAs under State law; institutions of higher education (IHEs); other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the proposed priority and requirements would be limited to paperwork burden related to preparing an application and that the benefits of this

proposed priority and these proposed requirements would outweigh any costs incurred by the applicant.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the proposed priority and requirements would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs, and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity would probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priority and requirements would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it

receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from small eligible entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at

www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department. [Catalog of Federal Domestic Assistance (CFDA) Number: 84.373Z.]

Dated: March 1, 2019

Johnny W. Collett,
*Assistant Secretary for Special
Education and Rehabilitative
Services.*

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